

COLUMBUS PUBLIC SCHOOLS
Office of Legal Services

270 East State Street • Columbus, Ohio 43215 • Telephone: (614) 365-5673 • Fax: (614) 365-5741

Giselle S. Johnson
General Counsel

Loren L. Braverman
Associate Counsel

August 27, 2004

Federal Communications Commission
Office of the Secretary
445-12th Street, SW
Washington DC 20554

DOCKET FILE COPY ORIGINAL

Re: *In the Matter of the Request for Review and Request for Waiver of SLD Decision
by the Columbus Public Schools, Docket No. 02-6*

To Whom It May Concern:

This is an appeal of the Columbus Public Schools from a decision of the following School and Libraries Division of the Universal Services Administrative Company ("SLD") Administrator's Decision on Appeal issued July 1, 2004:

Funding Year:	2003-2004
Billed Entity Number:	129175
Billed Entity Name:	Columbus Public Schools
471 Application Number:	365588
486 Application Number:	250976
Funding Request Number:	1002370

Contact Information

Columbus Public Schools
Attn: Jack McCarrick
1091 King Avenue
Columbus, Ohio 43212-2204
Phone 614-365-6173
Fax 614-365-6204
Email: jmccarr@columbus.k12.oh.us

No. of Copies rec'd 0
List ABCDE

In its July 1, 2004 decision, the SLD Administrator denied an appeal in which the Columbus Public Schools ("District") asked for the reversal of an adjustment of the service start date and imposition of a 20% funding penalty because the District filed its Form 486 one day beyond the 120 day period established by the SLD. A copy of the decision (Attachment A), the Appeal and supporting documents submitted by the Schools to the SLD Administrator (Attachment B), and Affidavit of Jack McCarrick, the District's designated E-rate coordinator (Attachment C) are appended to this letter and incorporated herein by reference.

The SLD Administrator's decision stated, in pertinent part:

"The 'Form 486 must be postmarked no later than 120 days after the Service Start Date featured on the Form 486 or no later than 120 days after the date of the Funding Commitment Letter, whichever is later.' [citations omitted] Since your Form 486 was postmarked after the 120-day filing requirement, the SLD has modified your service start date. The facts presented on this appeal do not justify waiving the 120-day filing requirement. Consequently, your appeal is denied."

Administrator's Decision on Appeal – Funding Year 2003-2004, at p.2.

I. BACKGROUND

The Columbus Public Schools submitted an application for funding for Program Year 2003-2004 to the SLD on February 4, 2003. The application contained a funding request for continuing Gigaman telecommunications services, in which reimbursement was requested for the period beginning July 1, 2003, the first day of the Program Year. Although the District did not receive the SLD's response to the application by July 1, it nevertheless continued and paid for the services. By the time SLD issued a Funding Commitment Decision Letter ("FCDL") on October 7, 2003 approving the District's application, the District of necessity had purchased \$1.2 million of the requested service.

The October 7, 2003 FCDL gave notice of the approval of an e-rate award for the entire \$4,175,556.76 sought by the District for Funding Year 2003-2004, with a start date for services of July 1, 2003 (Attachment B, Exhibit 2). On February 6, 2004, Columbus Public Schools filed an electronic version of Form 486 to confirm the receipt of funding awarded by the FCDL. This electronic filing was delivered 121 days after the date of the FCDL making it just 24 hours overdue (Attachment B, Exhibit 3). On March 3, 2004, the SLD notified the applicant of a changed service start date to October 14, 2003 and an adjusted funding commitment to \$3,347,630.44. The SLD cited the district's failure to submit Form 486 within 120 days of the date of the October 7, 2003 FCDL as the basis for the changed service start date and adjusted funding commitment. Columbus Public Schools appealed the decision through the SLD, which as noted above was denied in a July 1, 2004 letter.

II. POSITION OF THE COLUMBUS PUBLIC SCHOOLS

The filing of an FCC Form 486 is not jurisdictional. The Commission has recognized its authority to "waive any provision of its rules." While the Commission has cautioned that "a request for waiver must be supported by a showing of good cause," it has applied the common sense principle that a "[w]aiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule." *In the Matter of the Request for Review of the Decision of the Universal Service Administrator by Craig County Public Schools*, File No. SLD-241515 (emphasis added).

The Commission has recognized and exercised its “authority to waive the deadline with respect to requests that involve only telecommunications services.” *In the Matter of Request for Wavier by Woodburn School District, Changes to the Board of Directors of the National Exchange Carriers Ass’n*, File No. SLD-240961, CC Docket Nos. 96-45 and 97-21.

A. The Columbus Public Schools Made a Good Faith Attempt to Comply with the Applicable Timelines and Requirements for Submitting an FCC Form 486.

The Commission granted the requested waiver in *Woodburn School District* in large measure because it concluded that the applicant made a good faith effort to comply with the deadline. This criterion likewise is satisfied in this appeal and request for waiver. The record reflects that the Columbus Public Schools consistently has complied with timelines established by the SLD. The Applicant has processed 221 funding requests through the SLD over the years (see Exhibit 3), including 14 for Program Year 2003,¹ all of them on time except the subject Form 486, which was filed just hours after the deadline. Significantly, Columbus Public Schools filed the Form 486 for the FCDL approvals it received June 30, 2004 **on time**.

It should be further noted that the District’s ability to timely file the subject Form 486 was diminished because Ohio SchoolNet requirements for Technology Plan contents changed in July 2004. In response to those changes, the District was in the process of reconstructing its Technology Plan to meet the new SchoolNet requirements when the SLD transmitted the October 7, 2004 FCDL. The District, of course, could not file the form until the revised plan was approved by Ohio SchoolNet, as noted on the Form 486 itself. Final Ohio SchoolNet approval of the technology plan was not received until January 29, 2004, leaving only a short time to complete and transmit the Form 486. *See* Affidavit of Jack McCarrick, ¶¶3-9.

The District has made a substantial effort to comply with pertinent guidelines despite delays caused by factors outside of its control. When viewed in light of the District’s history of

¹ FRN 1015083 – FCDL June 30, 2003

FRN 1015196 – FCDL June 30, 2003

FRN 1015262 - FCDL June 30, 2003

FRN 1015342 - FCDL June 30, 2003

FRN 1015500 - FCDL June 30, 2003

FRN 1045103 – FCDL June 30, 2003

FRN 1045325 – FCDL June 30, 2003

FRN 1045797 – FCDL October 21, 2003

FRN 1045900 – FCDL October 21, 2003

FRN 1045981 – FDCL October 21, 2003

FRN 1046058 – FCDL October 21, 2003

FRN 1046140 – FCDL October 21, 2003

FRN 1046219 – FCDL October 21, 2003

FRN 1002370 – FCDL October 7, 2003

compliance, it is clear that a good faith effort was made to adhere to filing standards in this case. Accordingly, the appeal and request for a waiver should be granted.

B. The Appeal of the Columbus Public Schools is Limited to Telecommunications Purchases.

The decision in *Woodburn School District* also turned on the fact that the district's request was limited to discounts for telecommunications services. Again, the facts in *Woodburn* are similar to those presented in this appeal. As in that case, the District requests waiver of the filing requirement only for funding for purchased eligible telecommunications services.

C. The Granting of the Appeal Is Essential to Education and Consistent with the Public Interest.

In addition to meeting the *Woodburn School District* factors, the District is entitled to a waiver because of principles embodied in the Telecommunications Act of 1996. Section 254 of the Act declares the Commission and the Joint Board are to:

(c)(1) Consider the extent to which ... telecommunications services [supported by Federal universal service support mechanisms]:

(A) are essential to education ...;

...

(D) are consistent with the public interest, convenience and necessity.

The Columbus Public Schools sought from the Universal Service Program reimbursement of \$4,175,556.76 committed by the District for the purchase of Gigaman services during Program Year 2003-2004. There is no question but that these services were eligible for support, as is evidenced by *SLD Funding Commitment Decision Letter for FRN 1002370*. But because the District filed its Form 486 one day late, the SLD determined that the start date for funding of services would be changed from July 1 to October 14, 2003. That revision effectively reduced the District's funding eligibility to only \$ 3,347,630.44, or \$827,926.32 less than previously approved by the SLD.

The enormous financial consequence to the Columbus Public Schools flowing from SLD's determination stems in large measure from the fact that SLD did not transmit its FCDL to the District until long after the start of the Program Year. Had the SLD transmitted the FCDL on a timely basis by July 1, 2003, the start of the program year (and nearly five months after the District had submitted its application), the District's filing of the Form 486 121 days later would have resulted in a start date of July 2, 2003 rather than October 14, 2003 and a penalty equal to 1/365th of the District's e-rate award, approximately \$11,439.88. But simply because the FCDL was sent on October 7, 2003, more than three months after the beginning of the Program Year, the reduction in funding was magnified more than 72 times to \$827,926.32. Such a massive

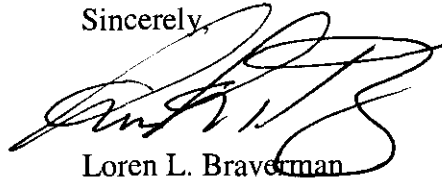
disparity in penalties that is dependant on the conduct of the SLD is inherently capricious and should not stand.

The Columbus Public Schools is a large urban school district serving more than 62,000 children. Nearly 64% per cent of its students come from economically disadvantaged environments as evidenced by free and reduced lunch program eligibility and SLD discount level. In an era of limited resources, the District is struggling to maintain and upgrade the systems necessary to adequately educate and provide the technological resources to our students to enable them to learn the skills to be productive citizens. E-rate reimbursements form an important component of the resources that support the District's effort. The District acknowledges the need to adhere to – and, indeed, has a record of consistently meeting – regulatory timelines imposed by the program. But the purposes of the Universal Service Program simply cannot be squared with a disproportionate and draconian penalty for a modest failure to meet timelines that results in a substantial deprivation of urgently needed resources.

III. CONCLUSION

The Columbus Public Schools respectfully requests that its appeal be granted and the filing deadline waived. However, should it be determined on appeal that a penalty must be levied, the District asks that it be a lesser amount that is proportionate to the nature of its omission.

Sincerely,

A handwritten signature in black ink, appearing to read "Loren L. Braverman", is written over a horizontal line.

Loren L. Braverman
Attorney for Columbus Public Schools

Attachments

COLUMBUS PUBLIC SCHOOLS
SUPERINTENDENTS OFFICEUniversal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2003-2004

July 1, 2004

Gene T. Harris, Ph.D.
Columbus Public Schools
270 East State Street
Columbus, OH 43215

Re: Billed Entity Number: 129175
471 Application Number: 365588
486 Applications Number: 250976
Funding Request Number(s): 1002370
Your Correspondence Dated: April 19, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2003 Form 486 Notification Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 1002370
Decision on Appeal: **Denied in full**
Explanation:

- You seek reversal of the SLD's decision to adjust the Service Start Date (SSD) and reduce the funding request commitment amount for violating the Form 486 120-day deadline. In support of your request, you state that Columbus Public Schools (the Schools) filed the Form 486 electronically on February 6, 2004, which was 121-days after the date of the Funding Commitment Decision Letter (FCDL). The Schools acknowledge that the Form 486 was submitted one-day after the 120-day deadline. However, the Schools assert that the 28% reduction in the funding commitment amount is not proportionate to the one-day violation. You state that the program rules provide an adjustment to funding commitments in an amount proportional to the adjusted SSD. However, the Schools did not receive the FCDL until October 7, 2003, and the Schools were penalized in a reduction to the funding commitment amounts that include the months before the

FCDL was issued. You assert that since they had no control over when the timing of issuance of the FCDL, the calculation of the appropriate penalty should not include the time-period prior to the FCDL notice. As an example, you state that if the FCDL was issued on July 1, 2003, and you submitted the Form 486 121-days after the FCDL date, then the SSD is adjusted to July 2, 2003, which is 120-days before the Form 486 was received. Therefore, you state that since you missed the 120-day deadline by one day, the SSD should be adjusting by one day from July 1, 2003. You request that the SSD be changed to July 2, 2003, and the penalty for late submission of the Form 486 reflect a downward adjustment in the E-rate support awarded of just 1/365th of the original total award.

- Upon review of the appeal letter, the relevant facts, and supporting documentation, the SLD determined that you should have filed the Form 486 for this funding request within 120-days calculated from the issuance date of the Funding Commitment Decision Letter or the Service Start Date as indicated on the Form 486, whichever is later. It is the responsibility of the applicant to ensure that all Forms are submitted to SLD in a timely and correct manner.
- The date of your Funding Commitment Decision Letter (FCDL) for Form 471 application 365588 was October 7, 2003. The Service Start Date reported on your Form 486 was July 1, 2003. The postmark date of your Form 486 was February 11, 2004. Since your FCC Form 486 was postmarked more than 120 days after your Service Start Date or the date of your FCDL, whichever is later, the SLD has revised your Service Start Date to the date 120 days before your Form 486 postmark date and reduced your funding commitment amount based on the adjusted Service Start Date.
- The "Form 486 must be postmarked no later than 120 days after the Service Start Date featured on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later." Funding Commitment Decision Letter (Funding Year 2003: 07/01/2003 – 06/30/2004), Important Reminders & Deadlines; Schools and Libraries Universal Service, Receipt of Service Confirmation Form, OMB 3060-0853 (August 2003), Instructions at 6; Form 486 Filing Information, www.sl.universalservice.org/reference/8form486.asp. Since your Form 486 was postmarked after the 120-day filing requirement, the SLD has modified your service start date. The facts present in this appeal do not justify waiving the 120-day filing requirement. Consequently, your appeal is denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and

options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division
Universal Service Administrative Company



Gene T. Harris, Ph.D.
Superintendent

COLUMBUS PUBLIC SCHOOLS

April 19, 2004

Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, N.J. 07981

Faxed to: 973-599-6542

Re: Appeal related to Form 486 Notification Letter – March 3, 2004
Applicant's Form 486 Identifier: Y6-486-GIG
Form 486 Application 250976
Funding Year 2003

Contact Information

Columbus Public Schools
Attn: Jack McCarrick
1091 King Avenue
Columbus, Ohio 43212-2204
Phone 614-365-6173
Fax 614-365-6204
Email: jmccarr@columbus.k12.oh.us

Billed entity: Columbus Public Schools
Billed entity number: 129175
Form 471 application number: 365588

To Whom It May Concern:

Columbus Public Schools appeals the changed start date and adjusted funding commitment established by a Form 486 Notification Letter dated March 3, 2004, related to FRN 1002370, Form 471 Application Number 365588. (copy attached as Exhibit 1)

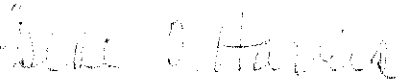
Page 3

April 19, 2004

Letter of Appeal, Schools and Libraries Division

In the event that the SLD cannot provide uniform and equitable penalties across all applicants, the applicant requests that restoration of the original service start date be allowed for this filing with no adjustment in the original support commitment.

Thank you for your consideration.



Gene T. Harris, Ph.D.
Superintendent

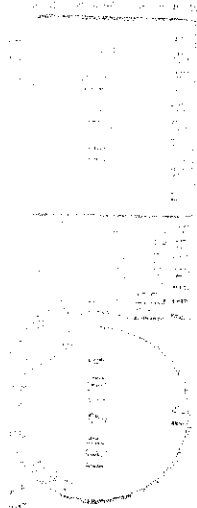
Attachments

/kr/pg

USAC

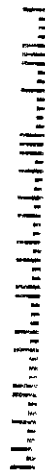
Schools and Libraries Division
Box 125 Correspondence Unit
80 South Jefferson Road
Whippany, New Jersey 07981

486 NOTIFICATION



TIME SENSITIVE MATERIAL

00160
COLUMBUS PUBLIC SCHOOLS
Jack McCarrick
1091 King Avenue
COLUMBUS, OH 43212-2204





Universal Service Administrative Company
Schools & Libraries Division

FORM 486 NOTIFICATION LETTER
(Funding Year 2003: 07/01/2003 - 06/30/2004)

March 3, 2004

COLUMBUS PUBLIC SCHOOLS
Jack McCarrick
1091 King Avenue
COLUMBUS, OH 43212-2204

Re: Form 486 Application Number: 250976
Applicant's Form 486 Identifier: Y6-486-GIG

This letter is to notify you that the Schools and Libraries Division (SLD) has received and accepted an FCC Form 486, Receipt of Service Confirmation Form, from you. This notification is to confirm the information that you provided. This information is being shared with the service provider whose SPIN you identified on the affected Funding Request Number(s) (ERN).

NEXT STEPS

- Work with your service provider to establish discounts (SPI) or reimbursements (BEAR)
- Invoice the SLD -
 - applicant invoice is BEAR Form for reimbursements
 - service provider invoice is SPI Form for discounts
- Pay non-discount portion, as stated in program rules
- Maintain ALL documentation, as stated in program rules

You may be receiving this letter to revise or correct a previous Form 486 Notification Letter. The information contained in this letter supersedes any previous notification you may have received, including, but not limited to, a previously adjusted Service Start Date or previously reduced funding commitment.

NOTICE ON SERVICE START DATE

There may be some situations where one or more Service Start Dates as reflected on this letter have been changed from what you indicated on the Form 486. Such changes are made by the SLD to be in compliance with program rules. You will know that a change has been made if there is an asterisk next to the Service Start Date. If the SLD changed the Service Start Date, this change may have triggered a reduction in the funding commitment. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of the discounts only on eligible, approved products and/or services actually delivered and installed on or after the Service Start Date indicated on this letter.

A GUIDE TO THE FORM 486 NOTIFICATION LETTER FUNDING COMMITMENT REPORT

A report for each ERN for which you have notified us of a Service Start Date is attached to this letter. We are providing the following definitions for the items in that report.

Funding Request Number (ERN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

Form 471 Application Number: A unique identifier assigned to a Form 471 application by the SLD.

Service Provider Name: The name of the service provider that you identified as providing the service included in this ERN.

Service Provider Identification Number: The unique number assigned by USAC to the service provider you identified as providing the service included in this ERN.

Billing Account Number: The account number that you have established with your service provider for billing purposes. This will be present only if a Billing Account Number was provided on the Form 471.

Service Start Date: The Service Start Date (SSD) as indicated on the Form 486. If this date is marked with an asterisk, it was changed by the SLD to be in compliance with program rules and an explanation for the change has been provided. This date as shown is controlling and USAC will not reimburse discounts on products and/or services delivered or installed prior to this date.

Service Start Date Change Explanation (SHOWN ONLY IF RELEVANT): If the Service Start Date is marked with an asterisk, this field will explain why the SLD changed the date. One of the following explanations may appear:

AVSCD: The Service Start Date may not be before the Allowable Vendor Selection/Contract Date (AVSCD) from the Form 470 cited for this ERN on the Form 471. If you indicated an earlier SSD on the Form 486, the SLD changed the SSD to the AVSCD.

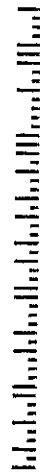
120-DAY 486 DEADLINE: Forms 486 must be postmarked no later than 120 days after the start of services or no later than 120 days after the date of the FCDL, whichever is later. If the Form 486 is postmarked after the later of those two dates, the SLD changed the SSD to the date 120 days before the Form 486 postmark date. That date will become the start date for discounted services. You are advised to keep proof of the date of mailing of your form(s).

Adjusted Funding Commitment (SHOWN ONLY IF RELEVANT): If the SLD changed the Service Start Date, this change may have triggered a reduction in the funding commitment. This field will only appear if there is a reduction to the funding commitment amount.

USAC
Schools and Libraries Division
Box 125 Correspondence Unit
80 South Jefferson Road
Whippany, New Jersey 07981

TIME SENSITIVE MATERIAL

00160
COLUMBUS PUBLIC SCHOOLS
Jack McCarrick
1091 King Avenue
COLUMBUS, OH 43212-2204



Schools and Libraries Division
Box 125 Correspondence Unit
80 South Jefferson Road
Whippany, New Jersey 07981

46-01

00155
COLUMBUS PUBLIC SCHOOLS
Jack McCarrick
1091 King Ave
Columbus, OH 43212-2204

[illegible]



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

October 7, 2003

COLUMBUS PUBLIC SCHOOLS
Jack McCarrick
1091 King Ave
Columbus, OH 43212-2204

Re: Form 471 Application Number: 365588
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 129175
Applicant's Form Identifier: Y6-471-01

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$4,175,556.76 is "Approved".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" will be approved at the level that the SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connection requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 365588
Funding Request Number: 1002370 Funding Status: Funded
Services Ordered: Telecommunications Service
SPIN: 143005375 Service Provider Name: Ameritech Advanced Data Services
Contract Number: OH-35845
Billing Account Number: BTN 614-R02-0342
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 08/16/2006
Annual Pre-discount Amount for Eligible Recurring Charges: \$4,192,032.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$1,093,482.88
Pre-discount Amount: \$5,285,514.88
Discount Percentage Approved by the SLD: 79%
Funding Commitment Decision: \$2,175,556.76 - FRN approved; modified by SLD
Funding Commitment Decision Explanation: The shared discount was corrected.

EXHIBIT 3

County of Franklin)
State of Ohio)
)

AFFIDAVIT OF JACK McCARRICK

I, Jack McCarrick, being duly sworn hereby deposes and states:

1. I am an analyst in the Administrative Support Division of the Information Support Services Department of the Columbus Public Schools.
2. At the direction of authorized Columbus Public Schools representative Richard E. Reynolds, I prepared Form 486 Application # 250976 to confirm the receipt of services awarded by a Funding Commitment Decision Letter issued to the Columbus Public Schools on October 7, 2003.
3. On February 6, 2004, I delivered Form 486 Application #250976 to the School and Libraries Division of the Universal Services Administrative Company through the SLD on-line system. A copy of the submitted form is attached hereto and incorporated by reference.
4. I understand through discussions with the SLD help-desk that SLD records confirm receipt of an on-line submission of Form 486 Application #250976 on February 6, 2004 and that the SLD considered the date of on-line submissions as the designated filing dates.

Further affiant sayeth naught.

4/16/2004
Date

Jack McCarrick
Jack McCarrick
Columbus Public Schools

[Signature]
Notary Public

My commission expires _____.

ARLENE S. JOHNSON, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date
Commission 147,03 O.R.C.



Form 486 - Paper Certification

Entity Number: 129175

Form 486 Application Number:
250976

Applicant's Form Identifier: Y6-
486-GIG

You must have Adobe Acrobat Reader 5.0 or higher to view and print your paper certification. If you do not have this software installed on your computer, you may download it for free from the [Adobe web site](#).

Click on the "Continue>>" button below to print a copy of your Form 486 certification page. Item 12 must be signed by the person authorized to submit and certify to the accuracy of the information on this form.

**Mail the signed
Block 5 certification to:**

SLD-Form 486
P.O. Box 7026
Lawrence, KS 66044-7026

**If sent by express delivery
services or U.S. Postal Service,
Return Receipt Requested:**

SLD-Form 486
c/o Ms. Smith
3833 Greenway Drive
Lawrence, KS 66046
(888) 203-8100

DO NOT submit Form 486 certification on paper if you have already certified your form online.

Note: If you are not currently connected to a printer, you can close your browser and print your certification page later using the "Certify Complete" button in the "Apply Online & View Forms" area.

Form 486 for Gigaman

Filed Online. Electronic file date used to identify 2/06/2004 date.

Entity Number	129175	Applicant's Form Identifier	Y6-486-GIG
Contact Person	Jack McCarrick	Phone Number	(614) 365-6173

5. Contact Person Information

Contact Person Name

J a c k M c C a r r i c k

Street Address, P.O. Box or Route Number

1 0 9 1 K i n g A v e n u e

City

C O L U M B U S

State Zip Code

O H 4 3 2 1 2 2 2 0 4

Check the box next to the preferred mode of contact. (At least one box **MUST** be checked.)

Telephone Number

Extension

☒ Fax Number

6 1 4 3 6 5 6 1 7 3

6 1 4 3 6 5 6 2 0 4

Email Address

j m c c a r r @ c o l u m b u s . k 1 2 . o h . u s

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

NOTICE: The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the form will be used to inform the Schools and Libraries Division of the Universal Service Administrative Company that a billed entity, and/or the schools and libraries that it represents, has begun or has planned to begin to receive service after receiving a funding commitment approval pursuant to FCC Form 471.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of an FCC statute, regulation, rule or order, your application may be referred to the federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party in a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you do not provide the information requested on the form, your application may be returned without action or your application may be delayed. The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 15.0 hours for the first submission and 1.5 hours for subsequent submissions, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden, to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, D.C. 20554.



Entity Number	Applicant's Form Identifier	Y6-486-GIG
Contact Person	Phone Number	(614) 365-6173
Jack McCarrick		

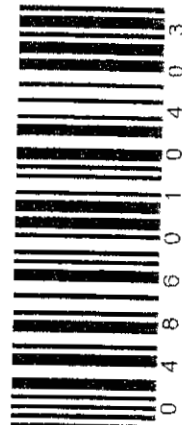
Block 3: Service Information

7. Please provide the following information for each Form 471 Block 5 (Discount Funding Request) item for which the Billed Entity is indicating that the named service provider may begin submitting invoices to SLD. You will need your FCDL for some of the information required below.

Remember: The FRNs listed below must be from the same Funding Year as is listed in Block 1, Item 3.

If you need additional pages, please label them 4A, 4B, 4C, etc. and indicate the number in the space provided here: Page 4 A

	(A) 471 Application Number From FCDL	(B) Funding Request Number (FRN) From FCDL	(C) Billing Account Number (if contained on your FCDL)	(D) Service Provider Name From FCDL	(E) Service Provider Identification Number (SPIN) From FCDL	(F) Funding Year Service Start Date* (Earliest Date that Discounts Will Begin) (*Cannot be before July 1 of the Funding Year for which you are requesting discounts.)
1	36555818	1002370	BTN 614-R02-03	Ameritech Advance	143005375	07012003
2						
3						
4						
5						
6						
7						
8						



Entity Number	129175	Applicant's Form Identifier	Y6-486-GIG
Contact Person	Jack McCarrick	Phone Number	(614) 365-6173

11. FOR A BILLED ENTITY WHO IS THE ADMINISTRATIVE AUTHORITY:

I certify that as of the date of the start of discounted services:

- a. ☒ the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 has (have) complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).
- b. ☐ pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 486:
- (FOR SCHOOLS and FOR LIBRARIES IN THE FIRST FUNDING YEAR FOR PURPOSES OF CIPA) is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.
- (FOR FUNDING YEAR 2003 ONLY: FOR LIBRARIES IN THE SECOND OR THIRD FUNDING YEAR FOR PURPOSES OF CIPA) is (are) in compliance with the requirements of CIPA under 47 U.S.C. § 254(l) and undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA under 47 U.S.C. § 254(h) for the next funding year.
- c. ☐ the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

FOR A BILLED ENTITY WHO REPRESENTS ONE OR MORE ADMINISTRATIVE AUTHORITIES¹:

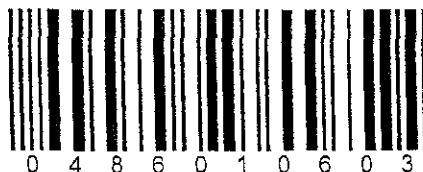
- d. ☐ I certify as the Billed Entity for the consortium that I have collected duly completed and signed Forms 479 from all eligible members of the consortium.
- e. ☐ I certify as the Billed Entity for the consortium that the only services that have been approved for discounts under the universal service support mechanism on behalf of eligible members of the consortium are telecommunications services, and therefore the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), do not apply.

For Funding Years after Funding Year 2001: If you checked Item 11d above, check ONE of the boxes below:

- f. ☐ I certify that some or all of the eligible consortium members checked Form 479 Item 6d or Item 6e to seek a CIPA Waiver, and upon request from the Administrator I can provide this information; OR
- g. ☐ I certify that no eligible consortium members checked Form 479 Item 6d or Item 6e to seek a CIPA Waiver.

The certification language above is not intended to fully set forth or explain all the requirements of the statute.

¹ See the Form 486 Instructions for Item 11, "Special Notes for Billed Entities Who Represent One or More Administrative Authorities."



102595-02-M-1540

**SLD- Form 486
C/o Ms. Smith
3833 Greenway Drive
Lawrence, KS 66046**

County of Franklin)
State of Ohio)
)

AFFIDAVIT OF JACK McCARRICK

I, Jack McCarrick, being first duly cautioned and sworn, hereby deposes and states as follows:

1. I am an analyst in the Administrative Support Division of the Information Support Services Department of the Columbus Public Schools and the designated E-Rate Coordinator.

2. Our first FCDL for the 2003-2004 Program Year was dated June 30, 2004. It arrived while our prior Technology Plan was still in effect and we were able to file the associated Form 486 within the required deadline.

3. Among the District's applications for funding for Program Year 2003-2004 was one containing a funding request for continuing Gigamon telecommunications services, in which reimbursement was requested for the period beginning July 1, 2003, the first day of the Program Year. Although the District did not receive the SLD's response to the application by July 1, 2004, it nevertheless continued and paid for the services. By the time SLD issued a Funding Commitment Decision Letter on October 7, 2003 approving the District's application, the District had purchased \$1.2 million of the requested service

4. Beginning in July 2003, Ohio SchoolNet began requiring more extensive technology plans from Ohio schools. The change required a total redevelopment of our existing plan using an online program provided by SchoolNet.

5. When the October 7, 2004 FCDL arrived, CPS staff was significantly revising the District's Technology Plan to meet the new State requirements.

6. The Technology Plan Certification requirement found in Form 486 Block 4 Item 8 could not be met until Ohio SchoolNet approved our new plan.

7. Ohio SchoolNet approved the School District's revised Technology plan on Thursday, January 29, 2004.

8. The Columbus Public Schools consistently has complied with timelines established by the SLD. The Applicant has processed 221 funding requests through the SLD over the years. All were filed on time, with the exception of the Funding Request subject to this appeal.

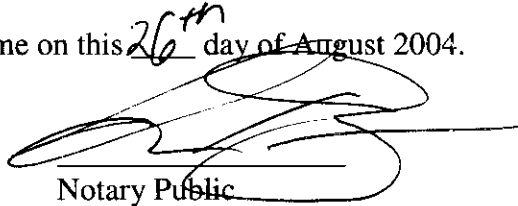
9. Of the 221 funding requests, 14 were filed for Program Year 2003-2004.
The Funding requests were as follows:

FRN 1015262 - FCDL June 30, 2003
FRN 1015342 - FCDL June 30, 2003
FRN 1015500 - FCDL June 30, 2003
FRN 1045103 - FCDL June 30, 2003
FRN 1045325 - FCDL June 30, 2003
FRN 1045797 - FCDL October 21, 2003
FRN 1045900 - FCDL October 21, 2003
FRN 1045981 - FCDL October 21, 2003
FRN 1046058 - FCDL October 21, 2003
FRN 1046140 - FCDL October 21, 2003
FRN 1046219 - FCDL October 21, 2003
FRN 1002370 - FCDL October 7, 2003

Further affiant sayeth naught.


Jack McCarrick

Sworn to and subscribed before me on this 26th day of August 2004.


Notary Public

LOREN LOUIS ESTAVILLE
ASSISTANT CLERK
NOTARY PUBLIC STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION
SECTION 147.02